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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,264	05/02/2001	Lyn Rosenboom	457009-2	6915

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EXAMINER	
MCGOWAN, JAMIE LOUISE	
ART UNIT	PAPER NUMBER
3671	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/847,264	ROSENBOOM, LYN	
	Examiner	Art Unit	
	JAMIE L. MCGOWAN	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 March 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,6-18 and 20-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *2* is/are allowed.

6)☒ Claim(s) *1, 6-14, 16-18, 20-23* is/are rejected.

7)☒ Claim(s) *15* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. In view of the Appeal Brief filed on 6/22/09, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Thomas B Will/

Supervisory Patent Examiner, Art Unit 3671

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 6-14, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of Purcell et al. (3,841,424).

Regarding claim 1, applicant discloses that it is known in the art to tow a utility cart behind a tractor. Applicant further discloses that such it is known in the art to provide such utility carts with tracks or belts instead of wheels (Specification - page 3). While applicant discloses the towed, tracked utility cart, it fails to disclose the specifics of the track assembly. Like the applicant, Purcell et al. also discloses the use of a track assembly on agricultural equipment. Unlike applicant, Purcell et al. further discloses specifics regarding a track assembly.

Regarding claim 1, Purcell et al. discloses a track assembly comprising:

- A frame (17) including a tensioning structure (26) adjustably spacing a first wheel (22) a distance from a second wheel (22)
- A top tandem arm (23) pivotally connected to said frame (17) at a pivot member (24) such that said top tandem arm (23) will pivot freely relative to the frame in a substantially vertical plane, said first wheel (22) being directly connected to a first end of the top tandem arm (23) at one end of the frame (17)
- A bottom tandem arm (27) having a front portion, a rear portion, a top portion, and a bottom portion, said bottom tandem arm (27) being pivotally connected to a second end of said top tandem arm (23), said pivot member (24) being positioned between said first end and said second end of said top tandem arm (23)
- A front and a rear tandem arm idler wheel (28) operably connected to the front and back of the bottom tandem arm (27)
- A belt (29) in engagement with the tandem arm idler wheels (28) and said first and second wheels (22)

Regarding claim 6, Purcell et al. discloses a track assembly comprising:

- A wheel frame (17)

- A first tandem arm (23) directly connected to an axle (24) positioned in said wheel frame forming a pivot member for rocking generally in a vertical plane about a first pivot axis
- A first wheel (22) positioned at one end of the wheel frame (17) and operably connec5ted to the wheel frame by direct attachment to a first end of said first tandem arm (23) and a second wheel operably connected to said wheel frame (17)
- A continuous ground-engaging belt (29) trained around said first and second wheels (22) and defining an upper run and a lower run, said lower run in contact with the ground
- A first idler wheel (28) structure supported by a second end of the first tandem arm (23), the pivot member (24) being positioned between the first and second ends of the first tandem arm (23), the idler wheel structure being in contact with the lower run between the first and second wheels

Regarding claim 14, Purcell et al. discloses a track assembly comprising:

- A wheel frame (17)
- A first tandem arm (23) directly connected to an axle (24) positioned in said wheel frame forming a pivot member for rocking generally in a vertical plane about a first pivot axis
- A first wheel (22) positioned at one end of the wheel frame (17) and operably connected to the wheel frame by direct attachment to a first end of said first tandem arm (23) and a second wheel operably connected to said wheel frame (17)
- A continuous ground-engaging belt (29) trained around said first and second wheels (22) and defining an upper run and a lower run, said lower run in contact with the ground
- A first idler wheel (28) structure supported by a second end of the first tandem arm (23), the pivot member (24) being positioned between the first and second

ends of the first tandem arm (23), the idler wheel structure being in contact with the lower run between the first and second wheels

Purcell et al. teaches that his track assembly provides good resiliency and recoiling ability under high speed and heavy duty conditions. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the track assembly of Purcell et al. on the towed, tracked vehicle disclosed by the applicant as the use of a known technique to improve similar devices in the same way so as to provide a resilient track assembly in applicant's prior art tracked vehicle.

Regarding claim 7, the combination of Purcell and Dow discloses that there is a second tandem arm supporting a second idler wheel structure, said second tandem arm pivotally connected to said wheel frame (17) or rocking in a generally vertical plane about a second pivot axis (at second 24) said second idler wheel structure contacting said lower run between said first and second wheels (22).

Regarding claim 8, the combination discloses that the first and second idler wheel structures include a plurality of idler wheels (28).

Regarding claim 9, the combination discloses that the idler wheels are mounted on lower tandem arms (27) pivotally connected to said first and second tandem arms (23).

Regarding claim 10, the combination discloses that the second tandem arm (23) supports said second wheel (22).

Regarding claim 11, the combination discloses that the wheel frame (17) includes a tension bar structure (26) for spacing said first and second wheels (22) and wherein said first and second tandem arms (23) are pivotally connected to said tension bar structure (at 24).

Regarding claim 12, the combination discloses that the first wheel (22) is a large idler wheel.

Regarding claim 13, the combination discloses that the front and rear tandem arm idler wheels (22) pivot transversely in a generally vertical plane relative to the bottom tandem arm (27).

Regarding claim 23, the combination discloses that the first idler wheel structure further comprises a third and fourth wheel, said third and fourth wheel (28) being in contact with said lower run between the first and second wheels.

4. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of Purcell et al. (3,841,424) as applied to claims 1 and 14 above, and further in view of Satzler (4,537,267).

Regarding claim 18, the combination of Applicant's admitted prior art and Purcell et al. discloses a track assembly comprising:

- A wheel frame (17)
- An arm (23) attached to an axle (24) positioned in said wheel frame (17), said axle comprising a first pivot axis for rocking of said arm (23) generally in a first plane
- A first wheel (22) positioned at one end of the frame and connected to the wheel frame (17) by the first tandem arm (23)
- A second wheel (22) operably connected to the wheel frame (17)

- An idler wheel structure supported by the arm such that the idler wheel structure and the first wheel rock about the first pivot axis in the first plane
- A continuous ground engaging belt (29) trained around the first and second wheels, the idler wheel structure being in contact with the belt

Further, regarding claims 16-18, while the combination discloses the invention as described above, it fails to specifically disclose that the idler wheel structure can pivot in a second plane which is perpendicular to the first plane. Like the combination, Satzler also discloses a track assembly. Unlike, Satzler further discloses that there is a second, perpendicular pivot which pivots around a pin (34) that would run parallel to the bottom tandem arm. Satzler teaches that this perpendicular pivot allows the track assembly to adjust when it encounters a raised object on the ground (column 4 line 66 through column 5 line 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the perpendicular pivot of Satzler in the track assembly of Purcell to allow the assembly to adjust for varying road conditions.

5. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of Purcell et al. (3,841,424) and Lykken et al. (6,318,484).

Regarding claims 20 and 22, applicant discloses that it is known in the art to tow a utility cart behind a tractor. Applicant further discloses that such it is known in the art to provide such utility carts with tracks or belts instead of wheels (Specification - page 3). While applicant discloses the towed, tracked utility cart, it fails to disclose the specifics of the track assembly. Like the applicant, Purcell et al. also discloses the use of a track assembly on agricultural equipment. Unlike applicant, Purcell et al. further discloses specifics regarding a track assembly.

Regarding claim 20, Purcell et al. disclose a track assembly comprising:

- A wheel frame adapted for supporting an implement frame
- A first tandem arm (23) directly connected to an axle positioned in said wheel frame forming a pivot member for rocking generally in a vertical plane about a first pivot axis (24)
- A first wheel (22) positioned at one end of said wheel frame and operably connected to said wheel frame by direct attachment to a first end of said first tandem arm (23) and a second wheel (22 – opposite side) operably connected to said wheel frame
- A continuous ground-engaging belt (29) trained around said first and second wheels and defining an upper run and a lower run, said lower run in contact with the ground
- A first idler wheel structure (27) supported by a second end of said first tandem arm (23), the pivot member (24)being positioned between the first end and the second end of the first tandem arm (23) such that said first idler wheel structure (27) and said first wheel (22) rock about said first pivot axis (24) in a reciprocating manner to maintain a desired distribution of weight between said first wheel (22) and said first idler wheel structure (27), said first idler wheel structure (27) further comprising a third wheel (28) connected by a first axle and a fourth wheel (28) connected by a second axle, the first and second axles running through said first idler wheel structure (27), said third and fourth wheels being in contact with the lower run between the first and second wheels

Purcell et al. teaches that his track assembly provides good resiliency and recoiling ability under high speed and heavy duty conditions. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the track assembly of Purcell et al. on the towed, tracked vehicle disclosed by the applicant as the use of a known technique to improve similar devices in the same way so as to provide a resilient track assembly in applicant's prior art tracked vehicle.

While the combination discloses the device as described above, it fails to describe an additional wheel on each of the first and second axes. Like the combination, Lykken et al. also disclose a track assembly for a vehicle. Unlike the combination, Lykken et al. further discloses that the idler axes each have two wheels (i.e. wheel 162 is made up of two wheels on the same axis and wheel 164 is made up of two wheels on the same axis (See Figure 3)). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use two idler wheels on each axis of the combination as taught by Lykken to balance the idler system by providing a wider base as is known in the art.

Regarding claim 21, the combination discloses that the front tandem arm idler wheel further comprises a third wheel and a fourth wheel connected by a first axle, the rear tandem arm idler wheel further comprising a fifth wheel and sixth wheel connected by a second axle and the third, fourth, fifth, and sixth wheels being in contact with said lower run between the first and second wheels.

Allowable Subject Matter

6. Claim 2 is allowed.

7. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed 3/23/09 have been fully considered but they are not persuasive.

Applicant's argument that Purcell et al. fails to show that the tandem arm pivots "freely" is not persuasive. While Purcell et al. does show a compression pad that cushions the

tandem arm at the top of its pivot motion, the pad does not appear to be attached in two places. Therefore, it could still be considered to pivot freely. Further, it is noted that since the track ultimately limits the pivoting of the tandem arm in both applicant's invention and in Purcell et al., the track could, by applicant's definition of freely pivoting, limit pivoting movement. If nothing can be in the tandem arm's way to be considered to "freely" pivot, then the tandem arm would have to be capably of moving in a 360° circle. Since applicant's tandem arm is limited by something, it appears that Purcell et al. can just as easily read on the term "freely" pivot.

Regarding the Satzler reference, the rejection to claim 15 has been removed since a positive connection is claimed between the axle and the bottom tandem arms and the idler wheels. Regarding claims 16-18, however, this positive connection is not claimed, therefore it is maintained by the Examiner that the Satzler pivot system still reads on the claims because it runs parallel to the tandem arms and allows a pivoting motion that is perpendicular to the pivoting motion that the tandem arms follow due to the pivot member (24) in the track assembly of Purcell et al.

Regarding applicant's argument against the Dow reference, it is noted that a new combination of references has been applied in the current rejection using applicant's specification in combination with Purcell et al. to show that it is old and well known in the art to tow a tracked vehicle.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMIE L. MCGOWAN whose telephone number is (571)272-5064. The examiner can normally be reached on Monday through Friday 8:00 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on (571)272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas B Will/
Supervisory Patent Examiner
Art Unit 3671

JLM
September 22, 2009